

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
)	
AMERICAN TOWER CORPORATION,)	
)	
Plaintiff)	Civil Action No. 03-12469-JLT
)	
v.)	
)	
FRED A. NUDD CORPORATION,)	
GRANITE STATE INSURANCE)	
COMPANY, and UNDERHILL)	
CONSULTING ENGINEER, P.C.)	
)	
Defendants.)	
)	
v.)	
)	
UNDERHILL CONSULTING)	
ENGINEER, P.C.)	
)	
Third Party Defendant)	
_____)	

JOINT STATUS REPORT ON SETTLEMENT EFFORTS

Pursuant to order of this Court dated December 7, 2004, the parties American Tower Corporation (“ATC”), Fred A. Nudd Corp. (“Nudd”) and Underhill Consulting Engineer, P.C. (“Underhill”) hereby file this status report.¹

As reported to the Court at the Rule 16 initial scheduling conference on November 1, 2004, and in the Joint Status Report filed on December 1, 2004, the parties to this case are actively involved in settlement discussions. A global mediation of this case, as well as two other

¹ The remaining party, Granite State Insurance Company (“Granite State”), does not join in this submittal. The claims against Granite State have been severed and stayed by order of this Court, and Granite State did not attend the initial Rule 16 conference.

related cases against Nudd and Underhill involving similar issues, was held on October 25, 2004 in Rochester, New York. That mediation resulted in the basis of an agreement.

The parties hereto have been actively negotiating the details of such agreement since that time. At this time the parties have agreed as to the terms of settlement as well as the language of the settlement agreement. All that remains is for the parties each to sign the agreement, and for settlement funds to change hands.

The agreement contemplates that the agreement will be signed, and that settlement funds will then be paid to ATC. There are five payments to be made to ATC, three of which will be made within five days of signature, one of which will be made within thirty days of signature, and one of which will be made within five months of signature (the "June payment"). The agreement states that the parties will, after the first four payments, file a stipulation of dismissal with prejudice of this matter.²

The parties currently expect that the settlement will be signed within one week and the payments (with the exception of the June payment) will be made within thirty days thereafter. Thus, the parties anticipate that by the third full week of February 2005 they will file the stipulation of dismissal. If the Court wishes, the parties will be happy to file another status report on settlement at that time if the dismissal is not filed.

² The agreement contemplates that the parties will not await the June payment before filing the stipulation of dismissal. Instead, the stipulation of dismissal will leave open the opportunity for ATC to make a subsequent motion for judgment on that June payment if the June payment is not made.

AMERICAN TOWER CORPORATION

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